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Blaney Harper
Jones, Day, Reavis & Pogue
51 Louisiana Avenue, NW
Washington, DC 20001

EXAMINER

HAMILTON, MATTHEW L

ART UNIT	PAPER NUMBER
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3688

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/045,120	Applicant(s) SYED, MAJID	
	Examiner MATTHEW L. HAMILTON	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 and 57-95 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 57-95 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/25/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Request for Continued Examination

1. This action is in reply to the request to for continued examination filed on 12 May 2008. Claims 1, 2, 7-10, 16-17, 21, 23, 57, 58, 62, 64, 68-69, 71, 76-77, 81, 83, 87-88 and 90 have been amended. Claim 95 has been added. Claims 1-26 and 57-95 are currently pending and have been examined.

2. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Information Disclosure Statement

3. The Information Disclosure Statement filed on 25 July 2008 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-26 and 57-95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee US Patent 6,374,177 B1.

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Claims 1, 16, 57, 68, 76 and 87:

As per claim 1, **Lee** teaches a method, apparatus and product comprising:

communicating broadcast information to a receiver via digital radio broadcast (column 11, lines 1-15).

Lee does not teach *receiving information regarding a plurality of actions entered in a man-machine interface of said receiver and tracking said plurality of actions, said plurality of actions associated with multiple items of data content of interest.* However, **Official Notice** is taken that it is old and well known in the advertising and promotion arts to track activities or actions performed by users regarding large quantity items or products of interest. For example, Publishers Clearing House offers a certain amount of products for price (e.g. three music compact disks (CD) for \$10 dollars). The user has to select (actions) and purchase three compact disks from a list at the website. The user is monitored to make sure they comply with the minimum requirements before placing an order and providing the incentive. Grocery stores, office supplies stores (outlets) and electronic stores (e.g. Best Buy) offer similar programs. The customer actions are monitored when purchasing online (for marketing research studies or for satisfying requirements before incentive is applied) or when the consumer brings the items to the point of sale terminal. **Lee** teaches receiving information regarding one user action from the man-machine interface and one single product. However, **Lee** could have obviously modified the invention to receive information regarding a plurality of actions entered in a man-machine interface and the tracking the user's action in regards to interest solely one product or a variety of products. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention of **Lee** to receive and track information regarding a plurality of actions associated with multiple items. One would have been motivated to receive and track information regarding a plurality of actions associated with multiple items in order to gather and collect data.

Lee does not teach *accumulating said information regarding said plurality of actions until a predetermined threshold associated with said plurality of actions is reached nor and after reaching said threshold, communicating a request for said multiple items of data content of interest.* However, **Official Notice** is taken that it is old and well known in the advertising and promotion arts to set a minimum

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requirement, threshold of actions or activities performed in order to provide a large quantity of items or products. For example, Publishers Clearing House offers a certain amount of products for price (e.g. three music compact disks (CD) for \$10 dollars). The user has to select (actions) three compact disks from a list. The minimum requirement is selecting and approving (threshold) the purchase of the three items. Grocery stores, office supplies stores (outlets) and electronic stores (e.g. Best Buy) offer similar programs. The customer actions are monitored when purchasing online or when the consumer brings the items to the point of sale terminal. Lee teaches sending in the request after accumulating one user action, such as pressing the INFO or BUY button at which a request for the content of interest is communicated. However, Lee could have obviously modified the invention in order to accumulate the information after reaching a certain threshold (e.g. one action, five actions or twenty actions). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention of Lee to collect information regarding a plurality of actions until a threshold of actions is reached and communicating items of interest. One would have been motivated to collect information regarding a plurality of actions until a threshold of actions is reached and communicating items of interest in order to make sure the customer has complied with the minimum requirements before providing goods or services.

Claims 2, 17, 58, 69, 77 and 88:

As per claims 2, 17, 58, 69, 77 and 88, **Lee** teaches the method, apparatus and products as in claims 1, 16, 57, 68, 76 and 87 as described above and further teaches *wherein said actions include any of the following: storing broadcast information rendered at said receiver, clearing broadcast information rendered at said receiver, purchasing products advertised in broadcast information rendered at said receiver, purchasing said multiple items of data content of interest, or browsing other broadcast data* (column 11, lines 16-34).

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Claims 3, 4, 19, 59, 60, 78 and 79:

As per claim 3, 4 19, 59, 60, 78 and 79, **Lee** teaches the method, apparatus and product of claims 1, 16, 57 and 76 as described above and further teaches *comprising receiving system information from said receiver, wherein said system information comprises time stamp information and random number information and wherein said time stamp information is a global positioning system time stamp* (column 11, lines 16-34 and lines 51-62). The Examiner notes that the claimed feature of receiving “random number information” along with the stamp information is given little, if any, patentable weight in that the claims do not include any subsequent use of the random number, thus it does not effect the invention.

Claims 5, 22, 61, 72, 80 and 91:

As per claims 5, 22, 61, 72, 80 and 91, **Lee** teaches the method, apparatus and product of claims 1, 16, 57, 71, 76 and 87 as described above and further teaches *comprising authenticating said receiver* (the receiver registers and must sign in) (column 13, lines 55-67).

Claims 6:

As per claim 6, **Lee** teaches the method of claim 3 as described above and further teaches *comprising communicating with an order placement service for placing an electronic order and synchronizing said order placement service for placing an electronic order and synchronizing said order placement service with a server, wherein said synchronizing is based on said time stamp information* (column 11, lines 16-34).

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Claims 7, 23, 62, 71, 81 and 90:

As per claims 7, 23, 62, 71, 81 and 90, **Lee** teaches the method, apparatus and product of claims 1, 16, 59, 68, 78 and 87 as described above but does not teach *comprising placing an order for said multiple items of data content of interest*. However, it would have been obvious to one of ordinary skill in the art at the time of the invention of Lee to place an order for multiple items. Lee teaches purchasing a product; however, Lee could have modified the invention to allow the user to place a variety or multiple orders of items. For example, the website Amazon.com allows a user to place a multiple orders when shopping online.

Claims 8, 20, 63 and 82:

As per claims 8, 20, 63 and 82, **Lee** teaches the method, apparatus and product of claims 6, 16, 62 and 81 as described above and further teaches *of data content of interest is carried out via any of the following protocols: point-to-point protocol (PPP), transmission control protocol/Internet Protocol (TCP/IP), user datagram protocol (UDP), or wireless datagram protocol (WDP)* (column 8, lines 30-50 and column 10, lines 40-59) but does not teach *wherein said communicating a request for said multiple items*. However, it would have been obvious to one of ordinary skill in the art at the time of the invention of Lee to communicate a request for multiple items. For example, Amazon.com allows consumers to place a multiple orders when shopping online.

Claims 9, 64 and 83:

As per claim 9, 64 and 83 **Lee** teaches the method, apparatus and process of claims 1, 57 and 76 as described above and further teaches *of data content of interest for digital radio broadcast to said receiver* (column 10, lines 60-67) but does not teach *wherein said method further comprises processing said multiple items*. However, it would have been obvious to one of ordinary skill in the art at the time of the invention of Lee to process multiple items. For example, Amazon.com processes various items when consumers are shopping online.

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Claim 10:

As per claim 10, **Lee** teaches the method of claim 1 as described above and further teaches *on an article of manufacture* (column 11, lines 16-34) but does not teach *wherein said method further comprises delivering said multiple items of data content of interest*. However, it would have been obvious to one ordinary skill in the art at the time of the invention of Lee deliver multiple items of interest to the user. Lee teaches is able to receive information about a product, however Lee could have modified the invention to deliver multiple items of interest.

Claim 11:

As per claim 11, teach a method of claim 10 as described above and further teaches *wherein said article of manufacture is any of the following: CD-ROM, DVD, magnetic tape, optical disc, hard drive, floppy disk, ferroelectric memory, flash memory, ferromagnetic memory, optical storage, charge coupled devices, magnetic or optical cards, smart cards, EEPROM, EPROM, RAM, ROM, DRAM, SRAM, or SDRAM* (column 11, lines 16-34). While it is not explicitly disclosed that the article of manufacturer (i.e. product) is a CD-ROM, DVD, magnetic tape, optical disc, hard driver, floppy disk, ferroelectric memory, flash memory, optical storage, charge coupled devices, magnetic or optical cards smart cards, EEPROM, EPROM, RAM, ROM, DRAM, SRAM, or SDRAM, no patentable weight is given to the type of product being purchased and delivered. Both the applicant's invention and the invention disclosed by Lee could be used to purchase any type of product from music CD-ROMs to food to insurance to cars, etc. Furthermore, Lee discusses purchasing music from a store for downloading to the receiver. Such music products are usually store on one or more of the claimed articles of manufacturer. Thus, Lee at least implies that the product could be one of the claimed types of articles of manufacture.

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Claims 12, 24, 67, 73, 86 and 92:

As per claims 12, 24, 67, 73, 86 and 92, **Lee** teaches the method, apparatus and product of claims 1, 16, 57, 68, 76 and 87 as described above and further teaches *wherein said digital radio broadcast is an in-band on-channel (IBOC) digital radio broadcast (digital audio broadcast—DAB)*(column 11, lines 1-15).

Claims 13, 25, 65, 74, 84 and 93:

As per claim 13, 25, 65, 74, 84 and 93 **Lee** teaches a method, apparatus and product of claims 7, 23, 62, 71, 81 and 90 as described above and further teaches *wherein said predetermined threshold comprises any of the following:*
a threshold indicating number of actions to be recorded before placing said order (column 11, lines 16-34).
and a threshold indicating either a download time limit or content size to be reached before placing said order (column 11, lines 16-34).

Claims 14, 26, 66, 75, 85 and 94:

As per claim 14, 26, 66, 75, 85 and 94 **Lee** teaches the method, apparatus and product of claims 1, 16, 57, 68, 76, 87 as described above and further teaches *wherein said threshold is modifiable over a network* (column 6, lines 21-32). Since the threshold field is one of the parameters, it is inherent that the threshold would be modifiable by the user.

Claim 15:

As per claim 15, **Lee** teaches the method of claim 1 as described above and further teaches *wherein said received broadcast information is in a format suitable for reception by an in-band on-channel digital radio receiver* (column 11, lines 1-15).

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Claims 18, 70 and 89:

As per claim 18, 70 and 89, **Lee** teaches the method, apparatus and product of claims 16, 68 and 87 as described above and further teaches *wherein said man-machine interface further comprises a graphical user interface (GUI)*.

Claim 21:

As per claim 21, **Lee** teaches the method of claim 16 as described above and further teaches *wherein said method further comprises electronically receiving* (column 11, lines 16-34) but does not teach *said multiple items of data content of interest*. However, it would have been obvious to one of ordinary skill in the art at the time of the invention of Lee to receive multiple items data of interest. For example, Amazon.com allows shoppers to receive information on multiple items they are interested in.

Claim 95:

As per claim 95, **Lee** teaches the method of claim 16 as described above but do not teach *the request for said multiple items of data content of interest being communicated via a wireless uplink module at said receiver*. However, it would have been obvious to one ordinary skill in the art at the time of the invention of Lee to communicate items of interest via wireless uplink module at receiver. For example, Global Positioning System in automobiles allows user to request and receive multiple items (addresses or directions) wirelessly.

Response to Arguments

6. Applicant's arguments with respect to claims 1, 16, 57, 68, 76 and 87 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW L. HAMILTON whose telephone number is (571)270-1837. The examiner can normally be reached on Monday-Friday 7:30a.m-5p.m EST alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James W. Myhre can be reached on (571) 272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MLH
Examiner, Art Unit 3688
August 4, 2008

/James W Myhre/
Supervisory Patent Examiner, Art Unit 3688